

Page 2) is completely erroneous and could only be made without looking carefully at the claims which, contrary to the Examiner's statements, indeed relate to a series of peptides which have the same properties, the same steps, the same methods and the same goals.

In particular, the present claims are directed to generating effective antibodies against bacterial infection by administering to the human or animal patient an immunologically effective amount of a peptide from a fibronectin binding domain which **does not itself bind to fibronectin**. As shown in the present application and in the parent application, Applicants discovered that peptides from the fibronectin binding domain of the fibronectin binding protein which did **not** bind to fibronectin exhibited superior results in terms of generating antibodies which were effective in inhibiting binding of the fibronectin binding protein to fibronectin, a key step in the process by which bacterial infection is initiated and spread. By selecting only those peptides which do not themselves bind to fibronectin, Applicants have been able to generate antibodies which are superior in inhibition of fibronectin binding and thus are superior in their ability to fight bacterial infection.

Accordingly, the invention as presently claimed relates to this method of generating more effective antibodies capable of inhibiting fibronectin binding, and contrary to the Examiner's incorrect assumption, all of the peptides included in claim 1 act in the same way to achieve the method of the present claims, namely they do not bind fibronectin, and thus will be more effective in generating antibodies which will inhibit the binding of the fibronectin binding protein to fibronectin. In short, exactly as was the case in the parent application wherein claims directed to the generation of antibodies against a certain set of peptides which did not bind to fibronectin, namely SEQ ID NOS: 2, 4, 6, 8, 10, 13, 17-20, 54-55, 57, 59-61, 86, 103 and 104, were examined and held allowable, the present invention as reflected in claim 1 is a single invention with the peptides listed therein as further reflective of

the peptides with the properties as set forth in the claims. These peptides clearly do not reflect separate inventions and need to be examined together in the present application.

Finally, although the Examiner has apparently required restriction to a single peptide sequence, such a restriction alone is not warranted by the rules relating to the examination of multiple sequences in a single application. Indeed, contrary to the Examiner's requirement in the present case, under MPEP 803.04, even if different sequences constitute independent inventions, which is clearly not the case here, a reasonable number of sequences are allowed to be examined in the same application, and the MPEP allows for ten nucleotide sequences to be searched in the same application without restriction. Accordingly, in the present case wherein the application claims generating antibodies against peptides of a specific property and should thus not be restricted in the first instance, the Examiner erred in making the present restriction against peptide species which are far simpler than nucleotide sequences, and indeed in the present case are very similar to one another to begin with. Once again, the key to the invention is the ability to generate antibodies against peptides that do not themselves bind to fibronectin, and thus in any event all of the peptides as set forth in Claim 1 will be related in this regard.

For these reasons, it is abundantly clear that the Examiner erred in making the present restriction requirement, as reflected in the fact that the central reason stated by the Examiner for the restriction, namely that the different peptides encompassed different steps and different purposes, is completely contradicted by the claims themselves which set forth the properties of then peptides of the claims and show that they all work in exactly the same manner. In addition, the search of Claim 1 will not present a serious burden to the Examiner because the claimed subject matter will all fall within the same search subclass, and the


MPEP mandates that in any event a reasonable number of sequences can be searched in the same application.

For all these reasons, Applicants submit that the present Restriction Requirement is clearly improper and should be withdrawn. Applicant thus requests that the Examiner withdraw the Restriction Requirement and proceed with the examination of the claims in their present form in their entirety.

Without prejudice to the foregoing which shows that the present Restriction Requirement is unnecessary, and solely for the purpose of completing the response, Applicant herein elects SEQ ID NO: 62.

Respectfully submitted,

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